

EXHIBIT 11

2-26-07 Oral Argument transcript - 21 MC 97

1

72QYWTCP
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

IN RE: SEPTEMBER 11 LITIGATION

21 MC 97 (AKH)

IN RE: SEPTEMBER 11 PROPERTY
DAMAGE AND BUSINESS LOSS
LITIGATION
-----X

February 26, 2007
10:20 a.m.

Before:

HON. ALVIN K. HELLERSTEIN

District Judge

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

2

72QYWTCP
APPEARANCES

FLEMMING ZULACK WILLIAMSON ZAUDERER LLP
Attorneys for WTCP
One Liberty Plaza
New York, New York
CATHI A. HESSION, ESQ.,
RICHARD A. WILLIAMSON, ESQ.,
JASON T. COHEN, ESQ.,
of counsel

QUIRK AND BAKALOR, P.C.
Attorneys for United Airlines
845 Third Avenue
New York, New York
JEFFREY J. ELLIE, ESQ.,
of counsel

2-26-07 Oral Argument transcript - 21 MC 97

should have considered costs --

THE COURT: I don't know that anyone can argue that cost is not a factor. Of course cost is a factor. Not only cost, but amount of people in line, the whole context of the times.

I won't go into this because none of the plaintiffs are here, but I think the context is in all in a decision on reasonableness. But what other parties did or did not do is not relevant.

MR. ELLIS: Your Honor, forget about the wrongful death plaintiffs, we are just talking about the property damage plaintiffs that are here --

THE COURT: I would think that if Mr. Williamson says cost has no bearing on whether you do not, I probably would object.

MR. ELLIS: Your Honor, if that issue comes before the jury, is there any more powerful evidence to drive home the point that cost is an issue --

THE COURT: I made my ruling on that point.

MR. ELLIS: Fine, your Honor.

THE COURT: And Mr. Williamson knows now the ground of the objection.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

14

72QYWTCP

MR. BARRY: One last point, your Honor.

THE COURT: Yes, sir.

MR. BARRY: Direct assessment of the threat. Fourteen years ago today the World Trade Center was bombed. From 1993 until 2001 what did World Trade Center do to assess the threat of --

THE COURT: That is going to be an issue with regard to people suing the World Trade Center, it's not an issue between them and you or what people have to prove or not prove.

MR. BARRY: What if I got an admission from them that that was the government's responsibility, not our responsibility?

THE COURT: That is their contention.

MR. BARRY: What?

THE COURT: That's their contention.

MR. BARRY: That's our contention, it's a government responsibility.

THE COURT: I have to deal with it in terms of each parties' contentions. But what some party did or did not do or may or may not be negligent in relation to that is not relevant to my judgment to the situation of another party.

MR. BARRY: I understand that's your ruling, Judge, but threat assessment, foreseeability, if they agree with us that threat assessment of a terrorist Islamic attack is the government's function, that goes to our defense and I think to

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

15

72QYWTCP

preclude discovery on that issue is a very severe sanction.

THE COURT: It's not a sanction, it's a ruling.

MR. BARRY: Ruling.

THE COURT: All right.

MR. BARRY: Sanction comes next if I don't shut up.

THE COURT: No, no, not from me.

All right. So we are finished with this.

Does anybody else have something to say?